

**BEFORE THE IOWA BOARD OF MEDICINE**

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**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**DAVID H. SEGAL, M.D., RESPONDENT**

**FILE Nos. 02-11-622, 02-12-542, 02-13-042, 02-13-189 & 02-13-325**

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**STATEMENT OF CHARGES**

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**COMES NOW** the Iowa Board of Medicine on May 15, 2015, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license number 38342 on April 13, 2009. Respondent's Iowa medical license is active and will next expire on October 1, 2016.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on July 30-31, 2015, before the Board. The hearing shall begin at 8:30 a.m. each day and shall be located in the conference room at the Board office at 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, Iowa.
2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 IAC 24.2(5)(d) to file an Answer. In that Answer, you should state whether you will require a continuance of the date and time of the hearing.

3.     Presiding Officer.   The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

4.     Prehearing Conference. A prehearing conference will be held by telephone on June 17, 2015, at 9:00 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5.     Hearing Procedures.   The procedural rules governing the conduct of the hearing are found at 653 IAC 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 IAC 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Julie Bussanmas 515-281-5637.

## **B. LEGAL AUTHORITY AND JURISDICTION**

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

9. Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148, and 272C and 653 IAC 25.

10. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 653 IAC 25.20.

## C. SECTIONS OF STATUTES AND RULES INVOLVED

### COUNT I

11. **Professional Incompetency:** Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) and 653 IAC 23.1(2)(a),(b),(c), (d), (e), and (f), by demonstrating one or more of the following:

- a. Willful or repeated gross malpractice;
- b. Willful or gross negligence;
- c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- d. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- e. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; or
- f. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in Iowa.

12. **Pre-signed Prescriptions:** Respondent is charged pursuant to Iowa Code section 148.6(b)(i) and 653 IAC 23.1(29) for a willful or repeated violation of a lawful rule or regulation adopted by the Board when he maintaining pre-signed prescriptions which were intended to be completed and issued at a later time.

## STATEMENT OF THE MATTERS ASSERTED

13. **Practice Setting:** Respondent is an Iowa-licensed physician who practices neurological surgery in Cedar Rapids, Iowa.

14. **Professional Incompetency:** The Board alleges that Respondent demonstrated professional incompetency in violation the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate neurosurgical care to numerous patients in Cedar Rapids, Iowa, including, but not limited to, the following:

- A. **Epidural Blood Patches:** Respondent inappropriately utilized epidural blood patches to manage postoperative spinal fluid leaks discovered following spinal surgery.
- B. **Neurostimulator Management:** Respondent's patients experienced excessive infections following neurostimulator placement and Respondent failed to appropriately manage the infections.
- C. **Call Coverage Arrangements:** Respondent failed to establish appropriate coverage arrangements for his patients in his absence putting his patients at risk of harm.

15. **Pre-signed Prescriptions:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa when he maintained pre-signed prescriptions which were intended to be completed and issued at a later time for patients in Cedar Rapids, Iowa.

#### **E. SETTLEMENT**

16. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

#### **F. PROBABLE CAUSE FINDING**

17. On May 15, 2015, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink, appearing to read 'Hamed H. Tewfik', with a stylized flourish extending to the right.

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Hamed H. Tewfik, M.D., Chairman  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686